HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.24910 of 2007

Date: December 7, 2007

Between:
Yonus Mohammad. …
Petitioner

And

1. Union of India, represented by its
   Secretary, Ministry of External Affairs,
   New Delhi.

2. Regional Passport Officer,
   Secunderabad. …
Respondents

* * *

ORDER:

This Court ordered notice before admission on 23.11.2007. Heard the counsel on record.

2. The writ petition is filed for a writ of *Mandamus* directing the respondents to make necessary correction in the column of the date of birth to read it as 10.6.1977 instead of 10.6.1974 and pass such other suitable orders.

3. It is stated that the petitioner filed an application for issue of passport before the second respondent in the year 1999 through an agent, whereupon the second respondent issued passport-bearing No.7431105 on 17.3.1999. It is also stated that a mistake crept in the application form regarding his date of birth, which was carried out in the passport issued by the second respondent wherein his date of birth had been recorded as 10.6.1974 instead of 10.6.1977.

4. In **Mohd. Nasrullah Khan** V. **Regional Passport Officer**,

Hyderabad[1] it was held thus:

> "In Ali Imran V. Regional Passport Officer, Secunderabad, I have considered the Circular dated 18.4.2001 issued by the Government of India in the Ministry of External Affairs pursuant to the judgment of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000. The instructions/clarifications issued in the said Circular read as under.
>
> (a) Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (passport issuing authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.
>
> (b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.
>
> (c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil

order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

In view of the above clarifications, I disposed of the said case observing as under:

Be it noted that under the provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the judgment of the High Court of Bombay referred to hereinabove, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the civil Court.

In this case, the petitioner has produced Secondary School Certificate to prove that his correct date of birth is 1-4-1976. Therefore, the claim of the petitioner is well supported and squarely falls in Clause (a) of the Circular dt. 18.4.2001."

5. In **Durgempudi Venkata Raghava** V. **Passport Officer**, **Ministry of External Affairs**, **Passport Office**, **Hyderabad**[2] it was held as hereunder.

"Placing reliance on the clarification issued on the aforesaid Circular, Writ Petition No.8533 of 2004 was disposed of directing the respondents to consider the representation of the petitioner along with the Secondary School Certificate issued by Secretary, Board of Secondary Education, Andhra Pradesh and pass appropriate orders in the light of the observations made in the said judgment.

It is no doubt true that the present Writ Petition was filed in the year 1997 and the Government under Ministry of External Affairs issued the Circular referred to supra on 18.4.2001. As can be seen from the material available on record, the certificates, which had been produced before this Court, it is clear that it is only a bona *fide* mistake, which had crept in.

Apart from this aspect of the matter, no counter-affidavit had been filed denying the specific averment made in the affidavit filed in support of Writ Petition that along with the application form for passport, the Travel Agent also enclosed copies of S.S.C. certificate, Intermediate certificate and also Degree certificate. Therefore, it is evident that without verifying the date of birth, the respondent authority just took the date of birth as filled up in the application form and issued the passport. Hence, it is needless to say that it is only a bona fide mistake.

The learned Senior Standing Counsel for Central Government, no doubt submitted that in such a situation, if the passport was issued prior to the said circular it would be proper to give an opportunity to the Writ Petitioner to file fresh application for issuance of passport to the competent authority.

In the light of the facts and circumstances, especially in view of Clause (a) of the Circular, dated 18.4.2001 referred to supra and also in view of the fact that all these copies of documents also had been produced at the time of filing of the application form but a *bona fide* mistake had crept in, the Writ Petition is disposed of with the following directions."

6. In the light of the facts and circumstances, the Circular referred to supra and also the decisions specified above, this Court is of the considered opinion that the writ petition be disposed of directing the respondent to receive application of the petitioner for correction of his date of birth as 10.6.1977 instead of 10.6.1974 as noted in passport bearing No.7431105 and dispose of the same in accordance with law

within a period of four weeks in the light of the Circular referred to supra and also the decisions specified above.

7. The writ petition is disposed of accordingly. No order as to costs.

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(P.S.NARAYANA, J.)

Date: December 07, 2007.

BSB

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[1] 2005(1) ALT 95

[2] 2005 (1) ALT 751